

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Respondent/Plaintiff,

V.

Criminal Case No. 04-80082
Civil Case No. 07-14335
HON. NANCY G. EDMUNDS

FRANK PAULUS,

Petitioner/ Defendant.

**ORDER TRANSFERRING CASE TO
COURT OF APPEALS PURSUANT TO 28 U.S.C. § 2244(b)(3)(A)**

Petitioner Frank Paulus filed a motion under 28 U.S.C. 2255. The Court, having reviewed the motion, considers the Petitioner's motion as a second or successive § 2255 motion to vacate sentence.

An individual seeking to file a second or successive § 2255 motion must ask the appropriate Court of Appeals for an order authorizing the district court to consider the motion. See 28 U.S.C. § 2244(b)(3)(A); *Stewart v. Martinez-Villareal*, 523 U.S. 637, 641 (1998). This requirement transfers to the Court of Appeals a screening function that the district court previously would have performed. *Felker v. Turpin*, 518 U.S. 651, 664 (1996).

The Sixth Circuit has held that "when a second or successive petition for habeas corpus relief or § 2255 motion is filed in the district court without § 2244(b)(3) authorization from this court, the district court shall transfer the document to this court pursuant to 28 U.S.C. § 1631." *In re Sims*, 111 F.3d 45, 47 (6th Cir. 1997).

Petitioner has not alleged or otherwise shown that he sought and received appellate permission to file a second or successive § 2255 motion. Accordingly, **IT IS ORDERED** that the Clerk of Court **TRANSFER** this case to the Sixth Circuit Court of Appeals pursuant to *In re Sims*, 111 F.3d 45, 47 (6th Cir. 1997) and 28 U.S.C. § 1631. **S O**

ORDERED.

s/Nancy G. Edmunds
Nancy G. Edmunds
United States District Judge

Dated: October 19, 2007

I hereby certify that a copy of the foregoing document was served upon counsel of record on October 19, 2007, by electronic and/or ordinary mail.

s/Carol A. Hemeyer
Case Manager